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Filing date: **10/10/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	86772769
Applicant	Vape International Partners
Applied for Mark	VAPECON
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Submission	Applicants Request for Remand and Amendment
Attachments	Motion to Remand_VAPECON.pdf(124581 bytes)
Filer's Name	Paulo A. de Almeida
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Signature	/Paulo A. de Almeida/
Date	10/10/2016

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APPLICANT:	Vape International Partners)
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SERIAL NO:	86/772,769)
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FILED:	September 29, 2015)
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MARK:	VAPECON)
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EXAMINING)
ATTORNEY:	Jeffrey J. Look)
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LAW OFFICE:	108)
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**MOTION TO REMAND FOR AMENDMENT OF THE APPLICATION, IN THE
ALTERNATIVE, TO THE SUPPLEMENTAL REGISTER**

Pursuant to TBMP § 1209.04, Applicant respectfully requests that the Board remand the application for amendment, in the alternative, to the Supplemental Register. The mark in the instant application was refused registration based on the Examining Attorney's finding that it is merely descriptive under Section 2(e)(1). Applicant has appealed, but seeks amendment, in the alternative, to the Supplemental Register in the event the Board affirms the refusal. The prosecution record does not currently contain a request for amendment to the Supplemental Register in the alternative. Applicant hereby requests remand to expressly make this amendment part of the appeal record. The Examining Attorney is expected to accept Applicant's request for an amendment in the alternative.

The Board will grant a request to remand for amendment of an application with a showing of good cause. TBMP § 1209.04. Applicant submits that good cause exists to remand the application because the amendment will clarify Applicant's intention during prosecution that if the appeal is denied, its application should be amended to the Supplemental Register in the alternative. Moreover, less than six months have passed since issuance of a Final Office Action; the appeal is still in the early stages, and neither Applicant nor the Examining Attorney have filed their appeal briefs; Applicant is not submitting any new arguments or evidence; and no final decision has been made. Further, the Examining Attorney is expected to accept the amendment.

Additionally, in a recent precedential decision, the Board *sua sponte* remanded a case to amend an application, in the alternative, to the Supplemental Register after the case was fully briefed. *See In re Eximius Coffee, LLC*, Serial No. 86262060 (September 27, 2016). Here, Applicant has submitted the instant amendment much earlier in the appeal for the sake of clarity and where such amendment is otherwise permitted. Accordingly, Applicant respectfully requests remand for amendment of the application, in the alternative, to the Supplemental Register.

Respectfully Submitted,

Dated: October 10, 2016

By /Paulo A. de Almeida
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